



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2015-0301; FRL-9933-51]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions or denials were issued during the period April 1, 2015 to June 30, 2015 to control unforeseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the emergency exemption or denial.

B. How Can I Get Copies of this Document and Other Related Information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2015-0301 is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

II. Background

EPA has granted or denied emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this notice.

Under FIFRA section 18 (7 U.S.C. 136p), EPA can authorize the use of a

pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A “specific exemption” authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. “Quarantine” and “public health” exemptions are emergency exemptions issued for quarantine or public health purposes. These are rarely requested.

3. A “crisis exemption” is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in “a reasonable certainty of no harm” to human health, including exposure of infants and children to residues of the pesticide.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the “reasonable certainty of no harm standard” of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the State or Federal agency issued the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions and Denials

A. U. S. States and Territories

Arkansas

State Plant Board

Specific exemption: EPA authorized the use of anthraquinone on rice seed to repel blackbirds and reduce damage to seedlings; April 1, 2015 to June 15, 2015.

California

Department of Environmental Protection

Crisis exemption: On June 25, 2015 the California Department of Environmental Protection declared a crisis for the use of *Aspergillus Flavus* AF36 on figs to reduce aflatoxin-producing fungi on dried figs.

Specific Exemption: EPA authorized the use of etofenprox in mushroom cultivation to control phorid and sciarid flies; April 27, 2015 to April 27, 2016.

Connecticut

Department of Energy and Environmental Protection

Specific exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; April 2, 2015 to December 31, 2015.

Delaware

Department of Agriculture

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; April 6, 2015 to October 15, 2015.

EPA authorized the use of potassium salt of hop beta acids in

beehives to control varroa mite; May 4, 2015 to December 31, 2015.

Delaware

Department of Health and Social Services

Crisis exemptions: On June 11, 2015 the Delaware Department of Health and Social Services declared crisis exemptions for the use of ethylene oxide, formaldehyde, hydrogen peroxide, paracetic acid, and sodium hypochlorite to inactivate *Bacillus anthracis* (anthrax) spores in laboratories that processed samples originating from Dugway Proving Ground potentially containing viable anthrax spores.

Florida

Department of Agriculture and Consumer Services

Quarantine Exemption: EPA authorized the use of naled in a bait treatment to eradicate non-native and invasive Tephritid fruit flies which are responsive to the attractant, methyl eugenol; June 4, 2015 to June 4, 2016.

Georgia

Department of Agriculture

Denial: On April 15, 2015 EPA denied the use of a pesticide product containing the active ingredient terbufos on cotton to control plant parasitic nematodes. This request was denied because the Agency was unable to conclude that the proposed pesticide use is likely to result in “a reasonable certainty of no harm” to human health, including exposure of infants and children to residues of the pesticide as required under the Food Quality Protection Act (FQPA).

Idaho

Department of Agriculture

Crisis exemption: On March 6, 2015 the Idaho Department of Agriculture declared a crisis for the use of thiabendazole on succulent pea seeds to suppress seed-borne *Ascochyta* blight and protect against *Fusarium* root rot.

Specific Exemption: EPA authorized the use of hexythiazox on sugar beets for control of spider mites; May 1, 2015 to September 30, 2015.

Kansas

Department of Agriculture

Specific exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; April 13, 2015 to December 31, 2015.

Maryland

Department of Agriculture

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; April 6, 2015 to October 15, 2015.

Maine

Department of Agriculture, Conservation and Forestry

Specific Exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; May 4, 2015 to December 31, 2015.

Michigan

Department of Agriculture and Rural Development

Crisis exemption: On April 14, 2015 the Michigan Department of Agriculture and Rural Development declared a crisis for the use of fluensulfone to control plant-parasitic nematodes in carrot fields.

On June 9, 2015 the Michigan Department of Agriculture and Rural Development

declared a crisis for the use of fluopicolide on hops to control downy mildew.

Minnesota

Department of Agriculture

Specific Exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; May 22, 2015 to December 31, 2015.

New York

Department of Environmental Conservation

Specific Exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; April 29, 2015 to December 31, 2015.

North Carolina

Department of Agriculture and Consumer Services

Denial: On April 15, 2015 EPA denied the use of a pesticide product containing the active ingredient terbufos on cotton to control plant parasitic nematodes. This request was denied because the Agency was unable to conclude that the proposed pesticide use is likely to result in “a reasonable certainty of no harm” to human health, including exposure of infants and children to residues of the pesticide as required under the Food Quality Protection Act (FQPA).

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; May 7, 2015 to October 15, 2015.

Oregon

Department of Agriculture

Specific Exemption: EPA authorized the use of hexythiazox on sugar beets for control of spider mites; May 1, 2015 to September 30, 2015.

Pennsylvania

Department of Agriculture

Specific Exemptions: EPA authorized the use of thiabendazole in mushroom cultivation to control *Trichoderma* green mold; March 26, 2015 to March 26, 2016.

EPA authorized the use of etofenprox in mushroom cultivation to control phorid and sciarid flies; April 27, 2015 to April 27, 2016.

EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; May 7, 2015 to October 15, 2015.

South Carolina

Department of Pesticide Regulation

Denial: On April 15, 2015 EPA denied the use of a pesticide product containing the active ingredient terbufos on cotton to control plant parasitic nematodes. This request was denied because the Agency was unable to conclude that the proposed pesticide use is likely to result in “a reasonable certainty of no harm” to human health, including exposure of infants and children to residues of the pesticide as required under the Food Quality Protection Act (FQPA).

Tennessee

Department of Agriculture

Specific exemption: EPA authorized the use of sulfoxaflor on sorghum to control sugarcane aphid; June 8, 2015 to November 30, 2015.

Texas

Department of Agriculture

Denial: On April 15, 2015 EPA denied the use of a pesticide product containing

the active ingredient terbufos on cotton to control plant parasitic nematodes. This request was denied because the Agency was unable to conclude that the proposed pesticide use is likely to result in “a reasonable certainty of no harm” to human health, including exposure of infants and children to residues of the pesticide as required under the Food Quality Protection Act (FQPA).

Texas

Department of State Health Services

Crisis exemptions: On June 8, 2015 the Texas Department of State Health Services declared crisis exemptions for the use of ethylene oxide, formaldehyde, hydrogen peroxide, paracetic acid, and sodium hypochlorite to inactivate *Bacillus anthracis* (anthrax) spores in laboratories that processed samples originating from Dugway Proving Ground potentially containing viable anthrax spores.

Utah

Department of Agriculture and Food

Crisis exemption: On June 19, 2015 the Utah Department of Agriculture and Food declared crisis exemptions for the use of sodium hypochlorite to inactivate *Bacillus anthracis* (anthrax) spores in laboratories that processed samples originating from Dugway Proving Ground potentially containing viable anthrax spores.

Virginia

Department of Agriculture and Consumer Services

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; April 6, 2015 to October 15, 2015.

Washington

Department of Agriculture

Specific Exemption: EPA authorized the use of lambda-cyhalothrin on asparagus for control of the European asparagus aphid; June 17, 2015 to October 30, 2015.

West Virginia

Department of Agriculture

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; May 7, 2015 to October 15, 2015.

Wisconsin

Department of Health Services

Crisis exemptions: On June 12, 2015 the Wisconsin Department of Health Services declared crisis exemptions for the use of ethylene oxide, formaldehyde, hydrogen peroxide, paracetic acid, and sodium hypochlorite to inactivate *Bacillus anthracis* (anthrax) spores in laboratories that processed samples originating from Dugway Proving Ground potentially containing viable anthrax spores.

Wyoming

Department of Agriculture

Specific Exemption: EPA authorized the use of diflubenzuron on alfalfa for control of grasshoppers and Mormon crickets; April 14, 2015 to October 31, 2015.

B. Federal Departments and Agencies

Environmental Protection Agency

Office of Emergency Management

Quarantine Exemptions: EPA authorized the uses of ethylene oxide, formaldehyde, hydrogen peroxide, paracetic acid, and sodium hypochlorite for use in

contaminated buildings for decontamination from anthrax spores. These exemptions were authorized for the purposes of emergency preparedness so the necessary materials are allowed and available to be used in the event of an anthrax contamination, either deliberate or accidental. June 4, 2015 to June 4, 2018.

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 16, 2016.

Susan Lewis,

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